



# **COMMONWEALTH of VIRGINIA**

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

VALLEY REGIONAL OFFICE

Douglas W. Domenech  
Secretary of Natural Resources

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### **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO SHENANDOAH COUNTY FOR SHENANDOAH COUNTY SANITARY LANDFILL Registration No. 81401**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Shenandoah County, regarding Shenandoah County Sanitary Landfill, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, the Permit and applicable regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the Shenandoah County Sanitary Landfill facility, located at 349 Landfill Road in Edinburg, Virginia that operates a municipal solid waste management

landfill.

5. "Shenandoah County" means Shenandoah County, a political subdivision of the Commonwealth of Virginia. Shenandoah County is a "person" within the meaning of Va. Code § 10.1-1300.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
8. "Permit" means the Title V Federal Operating Permit issued to Shenandoah County to operate a municipal solid waste management facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Shenandoah County on October 22, 2009.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
10. "VAC" means the Virginia Administrative Code.
11. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
12. "EPA" means the United States Environmental Protection Agency.
13. "PCE" means Partial Compliance Evaluation.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Shenandoah County owns and operates the Facility in Shenandoah County, Virginia.
2. The Facility is the subject of the Permit which allows the operation of a solid waste management facility.
3. On April 5, 2011, Department staff conducted Partial Compliance Evaluations (PCEs) of the Facility's 1<sup>st</sup> half 2010 Semi-Annual Monitoring Report, the 2<sup>nd</sup> half 2010 Semi-Annual Monitoring Report and the 2010 Annual Compliance Certification. All three reports were submitted by Shenandoah County on March 31, 2011. Based on the evaluations, Department staff made the following observations:
  - a. The 1<sup>st</sup> half 2010 Semi-Annual Monitoring Report was due on September 1, 2010.
  - b. The 2<sup>nd</sup> half 2010 Semi-Annual Monitoring Report and the 2010 Annual Compliance Certification report were due on March 1, 2011.

4. In accordance with 9 VAC 5-80-110 F.2, condition VII.C.3 of the Permit requires that "The permittee shall submit the results of monitoring contained in any applicable requirement to DEQ no later than **March 1** and **September 1** of each calendar year."
5. In accordance with 9 VAC 5-80-110 K.5, condition VII.D of the Permit requires that "Exclusive of any reporting required to assure compliance with the terms and conditions of this permit or as part of a schedule of compliance contained in this permit, the permittee shall submit to EPA and DEQ no later than March 1 of each calendar year a certification of compliance with all terms and conditions of this permit including emission limitation standards or work practices."
6. On April 7, 2011, based on the April 5, 2011 PCEs and follow-up information, the Department issued Notice of Violation No. AVRO7921 to Shenandoah County for the violations described in paragraphs C(3) through C(5), above.
7. Based on the results of the April 5, 2011 evaluations, the Board concludes that Shenandoah County has violated Permit condition VII.C.3 in accordance with 9 VAC 5-80-110 F.2 and Permit condition VII.D in accordance with 9 VAC 5-80-110 K.5 as described in paragraphs C(3) through C(5), above.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Shenandoah County, and Shenandoah County agrees to pay a civil charge of **\$4,768.00** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Shenandoah County shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Shenandoah County for good cause shown by Shenandoah County, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Shenandoah County admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Shenandoah County consents to venue in the Circuit Court of Rockingham County for any civil action taken to enforce the terms of this Order.
5. Shenandoah County declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Shenandoah County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Shenandoah County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Shenandoah County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Shenandoah County shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Shenandoah County intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Shenandoah County. Nevertheless, Shenandoah County agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
  - a. Shenandoah County petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Shenandoah County.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Shenandoah County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Shenandoah County and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Shenandoah County certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Shenandoah County to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Shenandoah County.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Shenandoah County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 31<sup>st</sup> day of May, 2011



Amy T. Owens, Regional Director  
Department of Environmental Quality

Shenandoah County voluntarily agrees to the issuance of this Order.

Date: May 27, 2011 By: Douglas C. Walker, County Administrator  
Douglas C. Walker County Administrator  
Shenandoah County

Commonwealth of Virginia

City/County of Shenandoah

The foregoing document was signed and acknowledged before me this 27<sup>th</sup> day of May, 2011, by Douglas C. Walker who is County Administrator of Shenandoah County, on behalf of Shenandoah County.

Christina M. Sherman  
Notary Public

253586  
Registration No.

My commission expires: 12.31.13

Notary seal:

